

# **New Progress in the Judicial Protection of Human Rights in China**

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## **Foreword**

Respecting and protecting human rights is a constitutional principle in China. It also reflects the will and pursuit of the Communist Party of China (CPC), the Chinese government and the Chinese people. The judiciary is the last line of defense to safeguard social fairness and justice, and judicial protection of human rights is an important part of human rights progress in a country. In recent years, especially since the 18th National Congress of the CPC, China has upheld the dominant position of the people, taking a people-first approach and ensuring that the people are the masters of the nation. The state strives to ensure the rights of the people, fully protects their interests, and promotes legislature based on rational analysis, strict law enforcement, judicial justice, and observance of the law by all citizens. Progress has been made in modernizing the system and capacity of state governance. China has effectively protected the people's rights and freedoms in an extensive array of fields in accordance with the law, while its people duly fulfill their obligations.

As China enhances the rule of law in all respects, new progress has been made in human rights protection in the field of justice. The reform of the judiciary has been driven to a deeper level, with improvements in the allocation of judicial powers and responsibilities, judicial accountability and opening-up, and the protection of lawyers' right to practice their profession. Channels of public participation in justice have been expanded, and the judicial protection of human rights has been improved. China has implemented a case-filing register system, revamped and improved its

litigation system, and strictly enforced principles of legality, in dubio pro reo, exclusion of unlawful evidence. The state is resolute in preventing and correcting miscarriages of justice, and the procedures for protecting human rights in judicial practice have been raised to higher standards. The judiciary exercises its power independently and impartially in accordance with the law, leading to strengthened public credibility. Further efforts have been made in terms of state compensation and legal aid. Judicial fairness and justice is safeguarded, and citizens' rights are effectively protected. Crime suspects, defendants and criminals are treated in a more civilized manner, punishments are meted out in a more standardized way, and the personal dignity, safety, and legal property of detainees are all well protected, as are their rights of appeal, accusation, and impeachment.

There is no end to mankind's pursuit of progress. There is still much room for improvement for the rule of law in China. Strengthening judicial protection of human rights will continue to be a major task in implementing the rule of law. China will proceed from its prevailing reality, learn from the achievements of other countries regarding the rule of law, enhance judicial protection of human rights, safeguard social fairness and justice, and implement the rule of law in all respects.

### **I. Strengthen the Mechanism of Judicial Protection of Human Rights**

China is striving to drive reform of the judiciary to a deeper level, allocate judicial powers and responsibilities in a more rational way, improve the judicial accountability system, promote judicial transparency, establish a national judicial assistance system, and ensure the right of lawyers to practice their profession and the rights of citizens to act as assessors and overseers.

Further improve the allocation of judicial powers and responsibilities, and ensure the independent and impartial exercise of the judicial and procuratorial power. Major plans for deeper reform of the judiciary were made at the 18th National Congress of the CPC and the third and fourth plenary sessions of the 18th Central Committee of the CPC. In 2014-2015, the Central Leading Group for Deepening Overall Reform held 19 meetings, 13 of which involved reform of the judiciary. The Group examined and approved 27 judiciary reform documents in total. Public security organs have improved the mechanism of law enforcement, changed the case-filing review system to case-filing register system, and strengthened examination and supervision of case admitting work. The Supreme People's Procuratorate has issued the "Opinions on Deepening Procuratorial Reform (Work Plan for 2013-2017)," and the Supreme

People's Court has released the "Opinions on Deepening the Reform of People's Courts in All Respects - the Fourth Five-Year Reform Plan of the People's Courts (2014-2018)." Since 2014, pilot programs have been promoted nationwide to improve performance in the following areas: judicial accountability, category-based management of judicial personnel, job security for the judicial profession, and unified management of the personnel, finance and property of people's courts and procuratorates below the provincial level. The reform of trial-centered litigation is making headway.

In 2014, people's courts and people's procuratorates transcending administrative boundaries were established in Beijing and Shanghai, to handle major cross-regional criminal, civil and administrative cases. This was to address certain parties' concerns over the authority of the jurisdiction in charge of their cases, and to promote the unified and correct application of laws. In 2015, the Supreme People's Court set up its first and second circuit courts in Shenzhen and Shenyang for major cross-regional administrative, civil and commercial cases. In 2015 the circuit courts handled 1,774 cases and concluded 1,653 of them, concluding all cases within the time limit.

Improve the judicial accountability system, and enhance the central role of judges and prosecutors in case handling. We will improve the accountability systems of presiding judges, collegial benches, and prosecutors for the cases they handle. The powers and responsibilities of judges and prosecutors have been made clear, and they have lifelong accountability for the cases they adjudicate. A strict accountability system for misjudgments has been implemented. Thus a judiciary operation mechanism with clear distinction between and unification of powers and responsibilities, and well management has taken shape. The judiciary has reformed the signing of written judgments, with a clear provision that other than in cases decided by a judicial committee, the presidents, vice presidents and divisional chief judges will not review and sign the written judgments of cases they did not participate in. It has been made clear that presidents and divisional chief judges of people's courts are not allowed to air judgmental opinions on cases they did not hear, or negate the opinion of trial judges and collegial benches, unless they attended deliberations, on such cases at the judicial committees or meetings of judges with specialized knowledge.

Reform has been carried out in judicial committees. The deliberation sessions of judicial committees are recorded with audio-visual devices from beginning to end, and all committee members who have participated in the discussion and cast their

votes must sign their names in the meeting minutes. A performance appraisal and internal public evaluation system has also been established for judicial committees. In pilot courts of Shanghai, the rate of cases handled independently by trial judges and collegial benches reached 99.9 percent of all cases, with only 0.1 percent of cases submitted to judicial committees for discussion.

The Ministry of Public Security amended the Regulations on the Appraisal of Law Enforcement by Public Security Organs, and the Regulations on Law Enforcement Accountability of People's Police of Public Security Organs, establishing a complete and effective appraisal system for monitoring the quality of law enforcement and for improving accountability in the investigation of misconduct during law enforcement. Forced confessions and illegal employment of police instruments or weapons are subject to strict investigation for their responsibility. The Chinese authorities issued the Regulations on the Recording, Notification, and Accountability Investigation of Leading Officials for Interventions in Judicial Activities and Handling of Specific Cases, and the Regulations on the Recording and Accountability Investigation of Staff Members of Judicial Organs for Their Intervention in Case Handling. People's courts at all levels have set up special archives in their case information management systems for recording internal and external interest and intervention in case-handling, so as to record in a complete, strict, and timely fashion any intervention in judicial activities by leading officials and any interest in cases expressed by staff members. On November 6, 2015 and February 1, 2016, 12 such cases were made public, and those adjudged to have transgressed received punishments pursuant to the law.

Promote judicial transparency, and ensure the right to know and the right to supervise for concerned parties and the public. The Supreme People's Court has established three platforms for releasing information on judicial process, written judgments, and the execution of judgments. By the end of 2015 China Judicial Process Information Online had had a total of 878,500 visits, China Judgments Online had released 14,480,000 copies of written judgments and garnered 410 million visits, and China Law Enforcement Information Online had publicized 34,347,000 information entries about persons subject to judgment execution, and offered information services to 36,850,000 visitors. In 2015, Chinacourt.org broadcasted 3,795 live trials online. The January 2016 online broadcast of the Qvod Player (Kuaibo) case attracted more than one million viewers. The case information disclosure system of the people's procuratorates was officially launched in October 2014, and by 2015 it had released 2,540,000 pieces of information about the judicial

process, 1,020,000 entries providing information on key cases, and 760,000 copies of effective legal documents.

Judicial organs have innovated the form of releasing judicial information, such as press conferences, websites, Weibo (microblog), WeChat, and news apps. In 2015, the Supreme People's Court held 26 press conferences. The Supreme People's Procuratorate held 14, and the Ministry of Public Security held 12. By 2015, people's courts at all levels nationwide had opened 3,980 Weibo and 1,447 WeChat accounts, and created 1,468 news apps. People's procuratorates at all levels nationwide had opened 4,085 Weibo and 3,186 WeChat accounts, and launched 2,550 news apps. Public security organs had opened 26,000 Weibo and WeChat accounts, and administrative organs of justice at all levels had opened a total of 8,000 Weibo and WeChat accounts and legal education apps and websites. The Supreme People's Court launched a mobile TV app, releasing 2,862 videos by 2015, with 22,245 minutes of updated content and 651,800 users.

Ensure lawyers' right of practice, so that lawyers are playing a bigger role in safeguarding the legitimate rights and interests of parties concerned. In 2015, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security, and the Ministry of Justice jointly issued the Regulations on Protecting Lawyers' Right of Practice in Accordance with the Law, which further implements relevant legal provisions, makes clear various measures to protect lawyers' right of practice, makes it more convenient for lawyers to participate in litigation, and improves the remedy and accountability mechanisms for ensuring lawyers' right to practice. Within the scope of their functions and duties and as prescribed by the law, judicial organs have protected lawyers' rights to know, their rights of application and appeal, and the rights to meet their clients, to read case files, to collect evidence and ask questions, to cross-examine, and to debate in court. Judicial organs have ensured that lawyers are not deterred from defending and representing the parties concerned, whose legitimate rights are protected in accordance with the law.

Public security organs at all levels have accelerated the provision of lawyers' meeting rooms, and opened online platform for lawyers to make appointments to visit their clients and made known to the public such appointment phone numbers, providing convenience to meetings between lawyers and their clients and ensuring their

conversations are not monitored. Procuratorial organs have effectively fulfilled their role of supervision over the obstruction of lawyers' right to practice.

In 2015, procuratorial organs at all levels resolved 1,093 cases involving infringement of lawyers' procedural rights pursuant to the law. In December 2015, the Supreme People's Court launched a lawyers service platform, collating 21,707 entries concerning law firms and 81,476 entries concerning lawyers. The platform offers convenient legal services to lawyers, including online case register, online access to case files, case information inquiry, electronic service of legal documents, and judges' contact details.

By 2015, 1,734 courts had opened the "12368" litigation service hotline, providing self- or staff-service information for parties concerned and lawyers, and handled a total of 76,270 inquiry calls.

In January 2016, the Supreme People's Court issued the Regulations on Effectively Protecting Lawyers' Procedural Rights in Accordance with the Law, which further clarifies the protection of lawyers' procedural rights and personal safety by people's courts, and stipulates that courts should, if conditions allow, provide lounges with desks, chairs, drinking water and other necessities for lawyers participating in court trials. Some courts in Beijing and Sichuan have provided changing rooms and waiting rooms for lawyers, protecting their dignity in litigious activities.

Conduct pilot programs to reform the system of people's assessors and supervisors, and ensure citizens' right to act as assessors and supervisors. In April 2015, the Standing Committee of the National People's Congress (NPC) issued the Decision on Authorizing the Implementation of the Pilot Program to Reform the System of People's Assessors in Certain Areas. In May 2015, the Supreme People's Court and the Ministry of Justice jointly issued the Measures on Implementing the Pilot Program to Reform the System of People's Assessors, rolling out reform at 50 courts in 10 provinces (autonomous regions and municipalities directly under the central government). By 2015, these courts had welcomed 7,800 new people's assessors, four times the number of judges. In 2015, people's assessors took part in the trial of 2,846,000 cases. At the Dongying Intermediate People's Court of Shandong Province, people's assessors participated in a major work-related crime for the first time when hearing the trial of Ni Fake for accepting bribery and obtaining significant revenues from unclear sources. In September 2014, the Supreme People's Procuratorate and the Ministry of Justice jointly launched a pilot program to reform the system of people's supervisors in Beijing and nine other provinces (autonomous regions and municipalities directly under the central government), supervising the handling of

1,505 cases according to the new reform requirements. Currently there are 15,000 people's supervisors at all levels of procuratorial organs. In 2012-2015, people's supervisors participated in 8,161 cases of work-related crimes, which are under the categories of "might be revoked" and "might not be prosecuted." Of the 216 cases in which people's supervisors gave opinions different from the preliminary decisions of procuratorial organs, 109 cases, or 50.5 percent, were ruled in favor of the people's supervisors. People's supervisors also presented 1,040 opinions regarding the nine situations within their supervisory scope.

Appropriately handle letters and visits involving lawsuits in accordance with the law, and improve the channels of rights relief. A working mechanism of handling letters and visits involving lawsuits has been established, which runs according to the principles that litigation and letters and visits are separated, that letters and visits are divided in an orderly manner, and that letters and visits are handled in accordance with the law. There has been greater standardization in the scope, procedure, and responsibilities involving letters and visits concerning lawsuits. More channels are now available for people to air their grievances, including letters, visits, telephone calls, the internet, and videos, and integrated online platforms have been introduced for this purpose, ensuring that the people have access to claim their rights in accordance with the law. Lawyers have been invited to participate in activities of receiving letters and visits, and act as agents to handle them, in a way that strengthens public faith in the letters and visits system.

The Supreme People's Court opened an online platform for complaints and appeals in February 2014, and an online video system to receive complaints and appeals in May of that year, which handled a total of 8,200 cases by 2015. In 2015, visits to the Supreme People's Court of those who were seeking legal justice to their own case dropped by 12 percent on a year-on-year basis. The Supreme People's Procuratorate established an online video system to receive appeals, which connects procuratorial organs at all four levels. In 2015, procuratorial organs at all levels received and handled 1,148,000 letters and visits. In 2012-2015, the Ministry of Justice received 19,788 people, registered 6,537 visits, and received 73,843 letters, including 10,337 letters on matters relating to the administrative organs of justice.

Abolish the system of reeducation through labor, and strengthen social governance with the rule of law. For more than 50 years, the system of reeducation through labor played a positive role in China, appropriate to the historical circumstances, in protecting public security, maintaining social order, ensuring social stability, and educating and rehabilitating lawbreakers. But over time its functions were gradually

replaced with the implementation of laws such as the Law on Penalties for Administration of Public Security and the Law on Narcotics Control, and also through improvements in the Criminal Law. Over the years, as the relevant laws became increasingly applicable in cases of reeducation through labor, the correction system played a lesser role. In December 2013, the Standing Committee of the NPC passed the Decision on Annulment of the Regulations on Reeducation Through Labor, putting an end to the system. It was also decided that persons who were receiving reeducation through labor as prescribed by law should be released and exempted from their remaining terms.

Establish a national judicial assistance system, and strengthen the protection of victims. In 2014, six state organs, including the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security, jointly issued a document for establishing the national judicial assistance system. Under the framework, the state provides economic assistance to victims of crime who are unable to obtain financial compensation, to help them through difficulties. Judicial organs strictly perform their duty of notifying such victims of their right to apply for judicial assistance, and ensuring that eligible applicants receive timely relief. In 2015, 1.67 billion yuan went to 71,700 victims and their families. By the end of 2015, public security organs had given 140 million yuan in judicial assistance to 6,338 persons. From January 2014 to October 2015, procuratorial organs at all levels received 13,000 applications for judicial assistance, and granted 120 million yuan of relief. From 2013 to 2015, people's courts at all levels allowed 625 million yuan in reduction or exemption of litigation fees for parties in economic difficulty.

## **II. Further Improve the Legal Guarantee Procedure of Human Rights**

We have reformed the case admitting system by converting the case-filing review system into a case-filing register system. We have revised the Criminal Procedure Law, and implemented principles of legality, presumption of innocence, exclusion of unlawful evidence. We have revised the Civil Procedure Law to effectively settle disputes. We have also revised the Administrative Procedure Law to strengthen the protection of legitimate rights and interests of private parties in administrative lawsuits. We have enacted the first Anti-Domestic Violence Law to strengthen legal protection of the personal rights of victims of domestic violence.



People's courts change the case-filing review system into a case-filing register system to better protect litigants' right of appeal. On May 1, 2015, a case-filing register system came into operation. People's courts should accept and register all cases of litigation, handle all those that meet the conditions of admissibility and prosecution, and ensure that all cases are entered and properly handled, and that litigious right is exercised without obstruction. From May to December in 2015, 9.94 million first trial cases were registered at courts across the country, a year-on-year increase of 29.54 percent; the on-the-spot case registration rate was 95 percent, among which civil cases increased by 26.45 percent, administrative cases 66.51 percent and criminal cases 58.66 percent. Difficulties in filing administrative lawsuits concerning housing demolition, land acquisition, and government information disclosure were significantly eased.

Put in place a system to exclude unlawful evidence and protect the legitimate rights and interests of criminal suspects. The Criminal Procedure Law revised in 2012 has specific provisions on respecting and protecting human rights, and their implementation has been guaranteed through improving the evidence system, compulsory measures, defense system, investigation methods, trial procedure, and enforcement procedures, and by adding special procedures. The Criminal Procedure Law stipulates that after detaining and arresting suspects, the law enforcement agencies should immediately commit detainees and arrestees to custody in detention houses and ensure the interrogations of suspects and defendants are audio- and video-recorded. In 2014, the Ministry of Public Security issued more explicit regulations concerning the scope of and interrogation recording requirements for cases subject to audio and video recording. The interrogation rooms of public security organs and detention houses are all equipped with audio and video recording facilities to prevent misconduct in law enforcement such as extorting confessions by torture and obtaining evidence through illegal means. The Supreme People's Procuratorate issued the Provisions on Making Synchronous Audio and Video Recordings Throughout the Entire Process of Interrogation of Suspects in Work-Related Offences by People's Procuratorates to further regulate investigation and interrogation activities and strengthen protection of the legitimate rights and interests of criminal suspects. The Criminal Procedure Law outlines the scope of unlawfully-obtained evidence and procedures for excluding such evidence. The judicial organs should exclude such unlawful evidence if they find any during the criminal investigation, examination and prosecution, or trial of a case. In 2015, the procuratorial organs at all levels demanded the withdrawal of 10,384 cases wrongly filed by investigation organs, and regulated 31,874 cases of illegal conduct involving abuse of compulsory measures and unlawfully obtaining evidence. In 2014, the procuratorate of Shunping County, Hebei Province resolutely excluded illegally-obtained evidence in reviewing a murder case and decided not to approve arrest, and demanded provision of more evidence. The real murderer was later caught by a

public security organ.

Implement the principle of presumption of innocence to prevent and correct miscarriages of justice. In 2013, the Ministry of Public Security issued the Notice on Further Strengthening and Improving Law Enforcement to Prevent Miscarriages of Justice and some other documents to prevent cases of misjudgment and to strengthen comprehensive, complete and real-time scrutiny of law enforcement to prevent miscarriages of justice at source. The Ministry of Justice issued the Opinions on Maximizing the Functions of the Forensic Assessment System to Prevent Miscarriages of Justice to strengthen forensic assessment management and further regulate such activities. The Supreme People's Procuratorate released Several Opinions on Effectively Performing Procuratorial Functions to Prevent and Correct Miscarriages of Justice, scrutinizing all activities concerning evidence, procedures and application of laws and to improve the system of discovery, correction, and prevention of cases of misjudgment, and to hold to account those responsible. In 2015, the procuratorial organs at all levels decided not to arrest 131,675 people and not to prosecute 25,778 in cases involving lack of evidence or actions that do not constitute a crime. In addition, they appealed against 6,591 judgments of criminal cases that they deemed wrong judgments. The Supreme People's Court issued the Opinions on Establishing and Improving the Working Mechanisms for the Prevention of Miscarriages of Justice in Criminal Cases, stipulating that the defendants should be acquitted for lack of evidence and no one should be prosecuted without criminal evidence. From 2012 to 2015, people's courts at all levels acquitted 3,369 defendants. A number of wrongful convictions were overturned in accordance with the law. These included the following cases:

rape and murder by Zhang Hui and Zhang Gaoping, nephew and uncle

poisoning by Nian Bin

rape and murder by Hujiltu

rape and murder by Xu Hui

murder by Huang Jianguang

rape and murder by Wang Benyu

murder by Yu Yingsheng

murder and arson by Chen Man

poisoning by Qian Renfeng

murder by Xu Jinlong

murder by Yang Ming

Carry out the pilot program of fast-track sentencing procedure for criminal cases to ensure defendants get speedy trials. In June, 2014, the Decision on Authorizing the Supreme People's Court and the Supreme People's Procuratorate to Launch the Pilot Program of Fast-Track Sentencing Procedure for Criminal Cases in Certain Areas was issued by the Standing Committee of the NPC. In August, 2014, the Supreme People's Court and the Supreme People's Procuratorate were authorized to launch a pilot program of fast-track sentencing for criminal cases in 18 cities including Beijing, Tianjin, Shanghai, and Chongqing. It concerns cases involving dangerous driving, traffic offenses, theft, fraud, forcible seizure, personal injury, picking quarrels and making trouble, or any other violation where the circumstances are minor and the accused may be sentenced to imprisonment of not more than one year, criminal detention, control, or a fine. If the facts are clear, the evidence is sufficient, the defendant voluntarily confesses to the crime, and the parties do not dispute the application of law, the relevant procedure shall be simplified, provided that it is in conformity with the basic principles of the Criminal Procedure Law, and the litigation rights of the parties concerned are fully protected.

By 2015, 31,086 criminal cases suitable for the fast-track sentencing procedure were concluded in 212 pilot courts at the primary level nationwide, 33.13 percent of all cases involving imprisonment of not more than one year in the same period in pilot courts at the primary level, representing 15.48 percent of all criminal cases in all courts nationwide. 92.77 percent of these were concluded within 10 days, and the pronouncement rate in court was 95.94 percent; the appeal rate of the plaintiffs with incidental civil action was zero and that of defendants was only 2.13 percent.

Regulate compulsory measures and reduce application of compulsory custodial measures. The Criminal Procedure Law further improved compulsory custodial measures, refined conditions for arrest, defined the social risk criteria of offences

and reduced the application of compulsory custodial measures to standardize the application of criminal coercive measures and better protect citizens' rights of personal freedom. In 2014, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security jointly issued documents to specify who should be notified when there are any changes in the place or time of custody, procedure of custody change, notification procedure and form of delivery, etc. as another attempt to prevent and correct extended custody. The procuratorial organs strictly abide by arrest conditions and procedures prescribed by law, with a view to being prudent when making arrest decisions and reducing the numbers of arrests. In 2015, the procuratorial organs at all levels decided not to arrest 90,086 people suspected of crimes but posing no social danger, and decided not to prosecute 50,787 people accused of minor offenses but not subject to punishment according to law. A review system on the need for custody has been established. After the arrest of criminal suspects and defendants, the people's procuratorate still conducts a review on the necessity of keeping them in custody. If this is not necessary, it would suggest the relevant judicial organs release them or modify the compulsory measures. In 2015, procuratorate organs nationwide advised the release of 29,211 criminal suspects who needed no continued custody or whose compulsory measures be changed.

Improve procedures for juvenile criminal cases to help underage offenders better reintegrate into the society. The Criminal Procedure Law amended in 2012 added a chapter of procedures for juvenile criminal cases in the special procedures section, specifying the principle of "education, persuasion and rehabilitation" for juvenile offenders, sticking to the principle of applying primarily educational measures, and taking punitive sanctions as ancillary means. Judicial organs assign officials who have a good knowledge of the physical and psychological characteristics of minors to handle juvenile cases. The Ministry of Public Security revised the Provisions on the Procedures for Handling Criminal Cases by Public Security Organs, the Supreme People's Procuratorate amended the Rules for the People's Procuratorate's Handling of Criminal Cases Involving Minors, and the Supreme People's Court released a judicial interpretation applicable to the Criminal Procedure Law, further detailing the special protection measures for juvenile offenders. Public security organs at all levels set up special agencies or designated full-time staff to deal with juvenile delinquency in line with special requirements. In 2015 the Supreme People's Procuratorate set up the Procuratorial Office for Juvenile Delinquency. By March, 2016, 12 procuratorates at provincial level, 123 at city level and 893 at primary level had established special independent procuratorial agencies for juvenile delinquency. People's courts are pressing ahead with the building of juvenile courts. By 2015, there were 2,253 juvenile courts and over 7,200 judges of juvenile court nationwide.

The public security organs, people's procuratorates and people's courts strictly implement requirements such as reviewing age, designating lawyers for defendants, and prudently applying custody measures in handling juvenile criminal cases, and notifying legal representatives and appropriate adults to be present. The judicial organs may take into consideration the family and school background, cause of crime, guardianship and education of a juvenile offender and use these as references when handling a case. Trials of cases in which the offenders are under the age of 18 will not be open to the public. If the offender is under 18 at the time of the crime and sentenced to less than five years of imprisonment, the records of the crime will be sealed. Efforts are made to educate and transform juvenile delinquents and minors involved in misbehavior. Since 2002, the juvenile relapse rate has been brought below 2 percent, and juvenile delinquency cases have decreased gradually to a ratio of 3.56 percent of all crimes in 2015.

Improve civil procedure system to strengthen protection of social and public interests. The Civil Procedure Law revised in 2012 set up a public interest litigation system. For conduct which damages public interests such as environmental pollution, or infringement of consumers' legitimate rights and interests, the relevant units and organizations prescribed by law may bring a lawsuit to the people's court. In 2015, the Supreme People's Court released a judicial interpretation to specify the prosecutor, court of jurisdiction, and trial procedure in environmental civil public interest litigation. In 2015, with the authorization of the Standing Committee of the NPC, the Supreme People's Procuratorate launched a pilot program for public interest litigation in the fields of ecological and resource protection, state assets protection, assignment of land use right of state-owned land, food and drug safety, etc. The pilot procuratorates launched pre-trial procedure in 325 cases, gave suggestions and urged relevant administrative organs to take action or correct 224 violations and some social organizations to institute six public interest litigations. In cases of non-performance of duties, or in absence of social organizations taking any action, while public interests are being continually damaged, the procuratorial organs may institute public interest litigations. In 2015, there were 12 such cases.

Formulate and implement Anti-Domestic Violence Law to strengthen legal protection of the personal right of victims. The revised Civil Procedure Law stipulates provisions for behavior regulation and defines the legal basis for rulings on personal protection. In December 2015, the Standing Committee of the NPC adopted the Anti-Domestic Violence Law, which stipulates that the offender should be given a written admonition, or subject to public security punishment or criminal sanctions based on the seriousness of the case. A personal safety protection writ system was set up for

the first time to effectively protect the legitimate rights and interests of victims of domestic violence, particularly minors, the elderly, the disabled, and pregnant and lactating women. The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly released the Opinions on Handling Domestic Violence Cases in Accordance with Law to strengthen timely judicial intervention in cases of domestic violence. From 2014 to 2015, the Supreme People's Court released 15 typical cases involving domestic violence, providing judicial guidance to further protect the legitimate rights and interests of women, minors, and the elderly. The people's court of Yuexiu District, Guangzhou City accepted an application for personal safety protection from a woman named Lin, and issued a Personal Safety Protection Writ, forbidding respondent Xu, her husband, from inflicting violence on her and her family, and from interfering with the normal life of her and her family by harassing or tracking, and prohibiting his presence within 200 meters of her residence to effectively protect the personal safety of the applicant.

Reform the administrative litigation system to protect the legitimate rights and interests of private parties to administrative lawsuits. The revised Administrative Procedure Law in 2014 aimed to resolve difficulties in filing, adjudication, and execution of court rulings. It specifies that administrative agencies are not allowed to interfere with or impede the admission of administrative cases by the people's courts. In handling administrative cases, the people's courts can review regulatory documents formulated by ministries under the State Council, local people's governments and their departments, and if they find them unlawful, such documents cannot be used as references of legality in administrative cases and people's courts should offer suggestions to the enactment bodies. It also stipulates that if the reconsideration organ's decision sustains the original administrative action, the administrative organ taking the original administrative action and the reconsideration organ shall be co-defendants. The individual in charge of an administrative organ against which a complaint is filed shall appear in court to respond to the complaint. Measures should be improved to motivate administrative organs to implement effective judgments, and if they refuse to implement such judgments, convictions or mediation papers, people's courts may impose fines on or arrest leading members of administrative organs, persons in direct charge and others held accountable.

### **III. Enhance Judicial Protection of Human Rights**

China punishes crimes by law, tries civil and administrative cases fairly, and strengthens the execution of effective judgments. It endeavors to improve institutions of community correction, state compensation and legal aid, and diligently safeguard citizens' right of life, property right, right of livelihood and other legitimate rights and interests.

Handle all kinds of criminal cases by law to protect people's right of life and property right. The state focuses on punishing violent terrorist crimes, serious crimes of violence, gangland crimes, crimes involving guns and explosives, crimes endangering food and medicine safety, crimes related to drug production and trafficking, and some other crimes. Public security organs have launched a series of special actions to fight against violent terrorist activities, combat organized criminal gangs, crack down on illegal gathering and trading of citizens' information, and combat telecommunication fraud and the use of pseudo base stations.

Together with the Ministry of Public Security and the China Food and Drug Administration, the Supreme People's Procuratorate has formulated working methods connecting administrative law enforcement on food and medicine crimes with criminal justice. In 2015, procuratorial organs at all levels recommended to food and drug regulatory authorities to bring 1,646 suspected criminal cases to lawsuit, and supervised and urged public security organs to file 877 cases. The mechanism enabling procuratorial organs to synchronously engage in investigating and handling industrial accidents has been improved. In 2015 procuratorial organs prosecuted 2,199 people for being liable for serious accidents, and investigated and dealt with 823 involved in these accidents for work-related crimes. After the Tianjin Port fire and explosion incident on August 12, 2015, procuratorial organs quickly launched an investigation, and then placed on file 25 cases of criminals suspected of dereliction of duty, abuse of power, and bribery. From 2012 to 2015, courts at all levels concluded 4,062,600 criminal cases of first instance. Related courts tried, according to the law, the case of the Kunming terrorist attack on March 1, 2014, that of Beijing terrorist attack on October 28, 2013, and other cases of violent terrorist crimes. Courts concluded 2,070 cases of gangland crimes, 1,050,500 cases of murder, robbery, kidnapping, rape and other crimes, and 417,300 cases of drug-related crimes.

Punish by law crimes of corruption and work-related crimes to create a favorable political and legal environment for the protection of human rights. In 2015,

procuratorial organs at all levels placed on file and investigated 40,834 cases of work-related crimes involving 54,249 people. Specifically, they investigated and dealt with 4,490 cases of embezzlement, bribery, and defalcation of more than one million yuan each, a year-on-year increase of 22.5 percent; 13,210 people for taking bribes and 8,217 for offering bribes; 13,040 civil servants for dereliction and malfeasance; and 20,538 people for work related crimes in land requisition and demolition, social security, education, health care, the Three Rural (agriculture, rural areas and farmers) issues and other livelihood fields concerning immediate interests of the people. From 2012 to 2015, courts at all levels concluded 94,900 cases of corruption and bribery and sentenced 100,200 criminals; concluded 10,300 cases of offering bribes and sentenced 9,219 criminals; and concluded 21,300 cases of dereliction of duty, and sentenced 23,500 criminals. Among the defendants, 381 were formerly at/above the department or bureau level, and 2,269 were at/above the county or division level. Zhou Yongkang was sentenced to life imprisonment and deprived of political rights for life, and his personal assets were confiscated. Bo Xilai was sentenced to life imprisonment and deprived of political rights for life, and his personal assets were confiscated.

Advance special actions against human trafficking, and make important progress in combating trafficking in women and children. China has made unremitting efforts to prevent and crack down on the abduction and trafficking of women and children. It has worked to implement China's National Plan of Action on Combating Trafficking in Women and Children (2013-2020) and to rescue abducted victims. Amendment (IX) to the Criminal Law increases penalties for whoever buys an abducted woman or child. Public security organs have launched special actions against human trafficking, and improved their working mechanisms. The principal leader or a leader in direct charge of a public security organ at the county (city or district) level should take charge of a special group for the examination of child trafficking cases, and take responsibility throughout the whole process. A mechanism for quickly searching for missing children has been put in place around the country, under which police resources are fully mobilized to quickly find missing children. A uniform operation of thorough search and investigation for children of unknown origin has been carried out nationwide, in which DNA information of children suspected of being the victims of abduction is collected and recorded into a national DNA database for comparison. As of 2015, the national DNA database against trafficking had helped more than 4,100 abducted children find their birth parents. The Anti-Trafficking Office of the Ministry of Public Security opened a Weibo to popularize information on anti-trafficking, promote public awareness in preventing and combating trafficking, and encourage people to support and participate in anti-trafficking work. Through these efforts, crimes of trafficking in women and children have been effectively curbed,



and the number of such cases has decreased year by year since 2013. The number of cases of trafficking in women and children that courts at all levels concluded in 2015 fell by 55.55 percent compared to 2010.

Bring to justice criminals who infringe the rights of minors, and strengthen the protection of minors' rights. In 2013, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Opinions on Legally Punishing the Crime of Sexual Assault Against Minors, highlighting protection of minor victims' rights and severe punishment of criminals engaging in sexual assault against minors. In October 2014, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Civil Affairs issued the Opinions on Several Issues Concerning Law-based Handling of the Infringement of the Rights and Interests of Minors by Their Guardians, deciding that guardianship of parents or other guardians who sexually assault, treat with violence, abuse and abandon minors will be revoked according to law. Amendment (IX) to the Criminal Law abolishes the crime of sex with a girl under the age of 14, and stipulates that whoever has sexual relations with a girl under the age of 14, as applicable to the Criminal Law, shall be deemed to have committed rape and shall be given a heavier punishment. It also stipulates that anyone who maltreats a minor or an elderly person whom they are responsible for guarding and nursing, if the case is serious, shall be sentenced to imprisonment or criminal detention of not more than three years. From 2013 to 2015, people's courts at all levels concluded 7,610 cases involving child molestation, and sentenced 6,620 criminals; and concluded 224 criminal cases of maltreatment. In 2015, the People's Court of Tongshan District, Xuzhou City, Jiangsu Province concluded the first case of revoking the guardianship of a minor's parents. Public security organs have strengthened police on campus and in surrounding areas, and effectively maintained campus safety. Around the country, 170,000 police offices and security sentry boxes have been set up in surrounding areas of schools, and 260,000 posts for protecting students have been set up, representing a daily patrol force of 300,000. Schools have employed 700,000 security guards and provided them with 1.2 million items of protective equipment, and installed 680,000 sets of equipment for technical defense.

Strictly control the death penalty and employ it with prudence to ensure that it applies only to a very small number of extremely serious criminal offenders. Following the Amendment (VIII) to the Criminal Law in 2011 which abolishes the

death penalty for 13 economy-related, non-violent offenses, Amendment (IX) to the Criminal Law, adopted in 2015, again reduces the number of crimes for capital punishment, abolishing the death penalty for nine areas of crime: smuggling arms and ammunitions, smuggling nuclear materials, smuggling counterfeit currency notes, counterfeiting currency, illegally raising funds, organizing others for prostitution, forcing others into prostitution, obstructing commanders or personnel in the performance of their military duties, and creating rumors and misleading the people during time of war. Amendment (IX) to the Criminal Law also extends the possibility of reprieve in cases of capital sentence. In death penalty cases, the defendant's right to defense and other legitimate rights and interests are fully protected, as hearings are held for all death penalty cases of second instance. When the Supreme People's Court reviews a death penalty case, it focuses on interrogating the defendant in accordance with the law, and listening to opinions of the defense counsel.

Try civil and commercial cases by law to effectively protect people's right of livelihood. From 2012 to 2015, courts at all levels concluded 32,302,400 civil and commercial cases. Among these, 90,100 involved rural contract disputes, 10,000 involved homestead disputes, and 6,611,600 cases involved marriage and family, upbringing and inheritance. The courts properly handled cases relating to personal injury, employment, education, health care, housing, and other areas closely related to people's daily and working life, protecting people's livelihood according to the law. From 2012 to 2015, people's courts at all levels concluded a total of 2,334,300 such cases.

Hear cases involving the environment or resource use to protect citizens' environmental rights. In June 2014, the Supreme People's Court established a tribunal for lawsuits involving the environment and resource use. As of 2015, courts of 24 provinces (autonomous regions and municipalities directly under the central government) had established 456 tribunals, collegial benches and circuit courts for environment cases. From 2012 to 2015, courts at all levels concluded a total of 495,500 such cases. From 2013 to 2015, the Supreme People's Court notified the public of 33 typical environment cases on four occasions, trying to ensure environment and resource laws are properly applied in a comprehensive, correct, and consistent way, and to promote environmental protection on the basis of the law.

Hear administrative cases to safeguard legitimate rights and interests of private parties. From 2012 to 2015, courts at all levels concluded 579,000 administrative cases of various types. The courts properly heard administrative proceedings involving house demolitions of high social concern, protecting the legitimate rights and interests of displaced people in accordance with the law. They concluded 32,800

administrative cases involving house demolitions. The system whereby the individual in charge of an administrative agency appears and defends the organ in court in accordance with the law has been improved. In 2014 and 2015, among Jiangsu administrative agencies involved in administrative proceedings, more than 90 percent of those in charge appeared in court. Three consecutive magistrates of Hai'an County People's Government personally appeared in court. For six years, all heads of various administrative organs of this county, when involved in administrative proceedings, appeared in court. Coordination of administrative cases and enforcement of non-litigation administrative cases have been strengthened, helping resolve administrative disputes. Timely feedback on prominent law enforcement problems found in court trials has been provided to administrative agencies to promote law-based administration. From 2014 to 2015, the Supreme People's Court made known to the public ten cases concerning land acquisition, house demolition and relocation, ten information disclosure cases, ten cases concerning environmental protection, ten cases concerning administrative nonfeasance, and ten administrative cases concerning commercial interests. In so doing, it has regulated administrative law enforcement, and provided uniform criteria for judgment.

Safeguard legitimate rights and interests of applicants in state compensation cases. In 2015, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the Interpretation on Several Issues Concerning the Application of Law in the Handling of Criminal Cases Regarding Compensation, elaborating on the circumstances under which investigation of criminal liabilities is terminated. The document has helped solve problems for citizens who cannot apply for state compensation due to protracted criminal cases, and played an important role in urging case handling organs to exercise functions according to the law and in protecting the right to state compensation. From 2012 to 2015, courts at all levels concluded a total of 12,300 cases on state compensation. On January 7, 2016, the Supreme People's Court and the Supreme People's Procuratorate brought the public's attention to eight typical criminal cases on state compensation.

Reinforce enforcement of effective judgment to protect legitimate rights and interests of relevant parties. The Supreme People's Court revised Several Provisions on Restricting Extravagant Spending of the Persons Subject to Enforcement, restricting expenditure not necessary for life or business operation by the persons who are included in the list of dishonest persons subject to enforcement. This effort helped set up a public mechanism for penalizing dishonest people. As of 2015, 3.08 million people subject to enforcement had been included in the list of dishonest persons, 3,577,000 attempts by these people to buy airline tickets had been intercepted, as well as 598,800 attempts to buy soft sleeper tickets and first-class tickets on high-speed trains. From 2012 to 2015, courts at all levels received

12,591,400 new cases of application for enforcement, of which 11,906,000 were enforced and concluded. Enforcement of cases relating to essential requirements of daily life has been reinforced. From December 1, 2015 to February 15, 2016, the Supreme People's Court enforced such cases in a centralized way, with focus on nine categories, including recovering payment for labor, migrant workers' wages, alimony, and payment for children's upbringing. As of January 15, 2016, about 60,000 cases had been enforced and concluded, involving sums of about two billion yuan.

Improve community correction work to effectively protect correction subjects' legitimate rights and interests. Administrative organs of justice at all levels have implemented the Opinions on Organizing Social Forces to Participate in Community Correction. They have covered community correction funds in financial budgets at all levels; encouraged and guided social forces to participate in community correction; tried to solve employment, schooling, social assistance, social security and other issues for correction subjects; strengthened education for and assistance to them through various channels; and directed attention to their psychological treatment. In so doing they have helped them better reintegrate into society. As of 2015, administrative organs of justice around the country had received a total of 2,702,000 offenders for community correction, among whom 2,004,000 were discharged from correction and 698,000 remained for correction. Only 0.2 percent of offenders committed crimes during the correction period. Altogether 1,339 community correction centers have been established nationwide in counties or districts. There are 24,787 bases for community service, 9,218 bases for education, 8,165 bases for employment, and 672,000 community correction groups. Around the country, 83,000 social workers and 690,000 volunteers are engaged in community correction. Haidian District Community Correction Center of Beijing founded the Zhongtu (Midway) College with five universities. In the college, university teachers provide targeted, classified education for correction subjects. Chaohu Community Correction Center, Anhui Province, has established mental health records for correction subjects, and provides consulting services.

Increase legal aid to enable citizens to better enjoy the right to legal aid. A framework of grassroots legal aid has been put in place. More than 3,500 offices have been opened to provide convenient legal aid to the public, and more than 70,000 legal aid work stations have been set up, improving grassroots infrastructure. Judicial organs have worked to spread the national legal aid information

management system, which helps to simplify the process of acceptance and review, and thus make it easier for citizens to receive legal aid. They have expanded the scope of supplementary items for legal aid, relaxed criteria for economic difficulty applying to legal aid, and increased fund guarantee for legal aid. From 2012 to 2015, the central government allocated 1.52 billion yuan to legal aid. The Central Authorities have urged local governments to include a legal aid fund in their budgets. As of 2015, 24 provinces (autonomous regions and municipalities directly under the central government) had established a provincial-level specialized fund for legal aid, and 91.4 percent of all local governments had covered the legal aid fund in their budgets. From 2012 to 2015, 4.7 million legal aid cases were handled around the country. This represents an average annual increase of 7.4 percent, benefiting more than 5.26 million people and providing legal advice to 25.87 million.

#### **IV. Safeguard the Legitimate Rights and Interests of Detainees**

We should further improve the conditions of prisons and detention houses, enhance scrutiny of supervisory activities and the execution of punishment, standardize commutation, parole, and execution of sentence outside prison, and stipulate that criminal defendants and appellants no longer need to wear clothing bearing the name of the detention house, so as to safeguard the detainees' personal dignity, safety, legal property, and legitimate rights including the rights to defense, to appeal, to complain, and to report violations of law.

Strengthen the construction and management of detention houses to safeguard detainees' personal safety. We must implement the new "Construction Standards for Detention Houses," replace shared beds with single beds, and define the construction standards and minimal per capita floor space in detention houses. We must strictly implement the system of physical examination upon admission, establish a long-term mechanism for preventing and combating prison bullies, adopt transition management over new detainees, and strictly forbid detainees from managing cells. We should strengthen the arraignment and interrogation system. When taking out a suspect from the detention house for identification - which must be done by no fewer than two investigators at a time - or recovering property related to a case, the case handling organs should hold a written instruction signed by the leading official of the organ above the county level which bears the legal causes for the investigation.

By the end of 2015, psychological counseling rooms had been built in 2,169 detention houses in China, and 2,207 detention houses had provided two-way video via the internet for those who serve their term of imprisonment in the detention houses. We should urge legal aid centers to locate in detention houses. More than 2,500 detention houses have set up offices for providing legal aid and consultation services to detainees and their families.

Standardize medical services and life management in prisons and detention houses to safeguard detainees' right to health. Detention houses should strictly follow the food supply quantity standard for detainees, which has been approved by local financial authorities. Meal standards, weekly menus and accounts should be posted in cells for supervision. Prisons should strictly follow the Regulations on Strengthening Management of Daily Life and Hygiene Work of Prisons, implement the prisoners' food supply quantity standard which was adjusted in 2013, practice food sampling and sample reservation, and implement the system of invitation for bidding for and procurement of daily necessities. We should strengthen management of daily life and hygiene work of prisons, and guarantee a scientific diet which is reasonably adjusted with fine management for prisoners while eliminating waste. We should take into consideration the special customs of ethnic minority prisoners, and provide special meals for those who are subject to dietary restrictions.

Prisons and detention houses should improve medical services for detainees, create medical records for them, staff them with stationed doctors, who make rounds of the cells every day, and transfer those who need to be treated in hospitals outside in a timely manner. Regulations on purchase, storage and use of medicines in prisons should be strictly followed. We should improve medical facilities, strengthen disease prevention and control, provide timely treatment to sick detainees, and guarantee their rights to life and health in accordance with the law.

The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of Justice and the National Health and Family Planning Commission jointly formulated the Regulations on Execution of Sentence Outside Prison, which came into effect on December 1, 2014. If persons serving sentences are injured or maimed while working during imprisonment, and are allowed to enjoy execution of sentence outside prison, the fees including their medical subsidies and living allowances outside the prison will be reimbursed in accordance with the relevant regulations of the state. Pregnant or lactating women, those who suffer severe illnesses and need to be released on bail for medical treatment, and those

who cannot take care of themselves are also allowed to enjoy execution of sentence outside prison.

Enhance supervision over prisons and detention houses to safeguard the legitimate rights and interests of detainees. To increase the transparency of their law enforcement, detention houses should open to the public on a regular basis. By 2015, a complaint handling mechanism for detainees had been installed in 2,610 detention houses, and 2,558 had employed special supervisors. Procuratorial organs supervise activities in detention houses such as health examinations upon entrance and temporary removal of detainees, with a view to preventing and rectifying illegal interrogation and forced confessions outside detention houses. We should strengthen supervision over the term of criminal detention and urge relevant departments to settle outstanding cases. In 2013, 4,459 detainees involved in outstanding cases had been in detention for more than three years, but the figure fell to six in 2015.

Standardize commutation, parole and execution of sentence outside prison and safeguard detainees' rights to implementation of penalty change. We must open prison affairs wider to the public, including the legal conditions, procedures and results of commutation, parole and execution of sentence outside prison. People's courts should improve online public notification and hearings, and open a national information network on commutation, parole and execution of sentence outside prison. From 2012 to 2015 people's courts adjudicated 2,406,100 commutation cases and 160,100 parole cases. Prisons and detention houses should carry out relevant procedures in a timely manner for those who are qualified to enjoy commutation, parole or execution of sentence outside prison in accordance with the law. People's procuratorates should strictly perform their supervisory duties so as to ensure the justice and fairness of penalty changes.

Implement national amnesty to highlight humanitarianism. On August 29, 2015, the 16th session of the 12th Standing Committee of the NPC approved the decision on amnesty for prisoners, and Chinese President Xi Jinping signed an amnesty decree, granting amnesty for four types of criminals who had been serving sentences according to effective judgments made by people's courts before January 1, 2015 and were no longer considered to be a danger to society on release. This was the eighth national amnesty since the founding of the People's Republic of China in 1949 and the first time since the adoption of reform and opening-up in 1978. It was a new

approach to implementing the amnesty system stipulated in the Constitution, to implementing rule of law and highlighting humanitarianism, so it was of great political and legal significance. According to judgments made by people's courts, 31,527 prisoners were granted amnesty across the country. Those who were incapable of work, or had no job, no source of income, and no legal supporters were granted subsistence allowances so that they could better reintegrate into society.